

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10297 of 1993

For Approval and Signature:

HON'BLE MR.JUSTICE M.R.SHAH

=====

1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

PARMAR INDUBEN KIRTIKUMAR

Versus

CHIEF DIST HEALTH OFFICER

Appearance:

1. Special Civil Application No. 10297 of 1993
MR RC JANI for Petitioner.
MR BP TANNA for Respondent.

CORAM : HON'BLE MR.JUSTICE M.R.SHAH

Date of decision: 25/03/2004

ORAL JUDGEMENT

The present Special Civil Application is filed under Article 226 of the Constitution of India directing the respondent to issue interview call to the petitioner for the post of Female Health Worker in pursuance of her application registered at Serial No. 1659 dated 30.7.1993. It is the case of the petitioner that applications were invited by the respondent by

advertisement dated 21.7.1993 for preparing a waiting list/merit list for training for appointment to the post of Female Health Worker and pursuant to the same she has submitted the application accordingly. It is the case of the petitioner that though candidates who are having less merits than the petitioner were called for interview the petitioner was not called for the interview and therefore she has filed the present Special Civil Application. An affidavit-in-reply has been filed by Dr. S.L. Soneji on behalf of the respondent. It is submitted in the affidavit-in-reply that in the application submitted by the petitioner she has given address of Taluka-Bhiloda and therefore her case was required to be considered for the post in Bhiloda Taluka, and as the posts in Bhiloda Taluka were reserved for the candidates belonging to Scheduled Tribe and as the petitioner belongs to Scheduled Caste community she was not called for the interview. It is also further pointed out that each candidate was required to furnish a certificate with regard to Taluka of the concerned Talati-cum-Mantri and so far as the petitioner is concerned she has submitted the certificate of Talati-cum-Mantri for Bhiloda Taluka and therefore her case was required to be considered for the post in Bhiloda Taluka only and her case was not required to be considered for Idar Taluka. It is also further submitted that so far as Idar Taluka is concerned, her case could not have been considered as the petitioner was not belonging to Idar Taluka. It is also further submitted that so far as Idar Taluka is concerned, one Chamar Muliben Kalabhai is already appointed who was having 70.14 per cent of marks and therefore it is requested that the petitioner was rightly not called for the interview for the post with regard to Bhiloda Taluka. Against these, ld. advocate Mr. Jani appearing on behalf of the petitioner has submitted that in the application itself though the petitioner has submitted her permanent address of Bhiloda Taluka, she has submitted that her in-laws are in Taluka-Idar and therefore her case was required to be considered for Idar Taluka.

2. I have heard the learned advocates appearing for the parties. For the purpose of preparation of waiting list for training for the post of Female Health Workers, the case of each candidate was required to be considered, considering the candidate's place of residence in a particular Taluka. When the petitioner has submitted an application submitting that her permanent address is of Taluka Bhiloda, her case was required to be considered for the post in Bhiloda Taluka only. Even in the application itself, the petitioner has given the address

of Bhiloda Taluka for the correspondence and even in the present petition also in the cause title the address is given of Bhiloda Taluka. As stated hereinabove, the petitioner has also produced the certificate of his residence issued by Talati-cum-Mantri of Bhiloda Taluka only. Under the circumstances, the respondents were justified in considering the case of the petitioner for the post in Taluka Bhiloda only. As submitted in the affidavit-in-reply as the posts in Bhiloda Taluka were reserved for candidates belonging to S.T. community and as the petitioner was belonging to S.C. community, the petitioner was not rightly called for interview. Therefore, there is no illegality committed by the respondent in not calling the petitioner for interview for preparation of merit list/waiting list for training for the post of Female Health Worker. The petition is, therefore, required to be rejected. However, at this stage, Mr. Jani, ld. advocate appearing for the petitioner has submitted that looking to the facts and circumstances of the case and as the petitioner was under the wrong impression about mention of residence of Bhiloda Taluka, her case is required to be considered sympathetically for the posts which may be fallen vacant in future, and as and when applications are invited through advertisement and when she want to apply in future she might be overaged which may come in her way. Looking to the facts and circumstances of the case, I am of the opinion that as and when applications are invited, it is open for the petitioner to apply and the respondents are directed to consider the case of the petitioner sympathetically and also consider the waiver of upper age limit in accordance with law.

3. With these observations and directions, the Special Civil Application is rejected. Rule is discharged with no order as to costs.

rmr. [M.R. Shah, J.]